



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/564,567

02/21/2007

James Thompson

3998264-

9809

7590 11/24/2009  
Porter, Wright, Morris & Arthur LLP  
Attn: Richard M. Mescher  
41 South High Street  
28th Floor  
Columbus, OH 43215

EXAMINER

EDELL, JOSEPH F

ART UNIT

PAPER NUMBER

3636

MAIL DATE

DELIVERY MODE

11/24/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/564,567	<b>Applicant(s)</b> THOMPSON, JAMES	
	<b>Examiner</b> JOSEPH F. EDELL	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on 20 July 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12-48 and 51-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-48 and 51-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 55 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 55 and 56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 55, the phrase "as claimed in any preceding claim" is unclear rendering the scope of the claim indefinite as multiple claim preceding claim 55 were canceled by Applicant.

Regarding claim 56, the phrase "as claimed in one of claims 1 to 54" is unclear rendering the scope of the claim indefinite as multiple claim preceding claim 56 were canceled by Applicant.

### ***Claim Rejections - 35 USC § 102***

Art Unit: 3636

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 12-27, 31, 34, 37, 46-48, 51, and 55-61 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,446,530 to Rowland.

Rowland discloses a seating arrangement that includes all the limitations recited in claims 1-9, 12-27, 31, 34, 37, 46-48, 51, and 55-61. Rowland shows a seating arrangement having a plurality of seating positions (first and second seats in Fig. 2) including a seat 20 and footwell (area within legs and rails 22-27), the footwell of a first seating position (lower seat in Fig. 2) being located beside the seat of a second seating position (upper seat in Fig. 2), the second seating position being located generally forward of the first seating position, each seat is capable of being operated into a reclined state in which a leg-supporting component 31 of the seat projects into the associated footwell (reclined state being when the nest chairs lean against an object), the second seating position overlaps with the footwell of the first seating position in a transverse direction perpendicular to a forward direction such that the second seating position overhangs part of the footwell of the first seating position, each seat is associated with an armrest 41 overlapping in the transverse direction and including an arm-receiving region, the seats of the first and second seating positions overlap in the transverse direction, each seat includes a back 21 and a base 28,29, and a shell (covered enclosure of rails 40,55, armrests 41 and back 21) shaped to define a

Art Unit: 3636

respective station for at least one seat and to define the footwell on at least one respective station wherein, when the seats are in the reclined state, the respective backs of the first and second seating positions overlap in the transverse direction, the footwells are shaped to become narrower in the forward direction, the shell is shaped so that the respective station becomes wider and the respective footwell becomes correspondingly narrower in the forward direction, the back of the seat, when reclined, of the second seating position overhangs part of the footwell of the first seating position, the arm-receiving region of the second seating position overhangs part of the footwell of the seating position, the station for the seat of the second seating position overlaps or overhangs part of the footwell of the first seating position, the footwell of the first seating position becomes narrower in a direction generally away from a ground surface on which the seating arrangement rest during use, the footwell of the first seating position narrows at an inflected portion located between the leg support component of the seat when reclined of first seating position and the back when reclined of the seat of the second seating position, the shell is shaped so that the respective station becomes wider and the respective footwall become narrower in the direction generally away from the ground, the armrest includes a shelf 45 overhanging the respective seating position in the transverse direction and the respective seat, the armrests are fixed with respect to the shell, each seat, in the reclined state, provides a sleeping surface (horizontal portion of seat 20) that is substantially horizontal with the ground surface, the shell is shaped to defined a respective station for two or more seat in a row, the shell includes a portion for accommodating the back of a seat and being fixed in a fore-and-aft direction

Art Unit: 3636

and capable of moving in a fore-and-aft direction, a buttress portion 55 on each station to define a respective footwell, the shell is shaped to define a respective generally upright web portion, the footwell of the first seating position extends beyond the base of the seat, when upright, of the second seating position in the forward direction, a platform 30,31 provided within each footwell that closely approaches the leg-support component of the associated seat, a respective sleeping compartment with a sleeping surface projecting into the associated footwell and that overlap, and a base-receiving region of the second seating position overhanging part of the footwell of the first seating position. Please note that Examiner reasonably interprets "beside" as near, "shell" as an enclosing cover, and "station" as a place or position in which is thing is normally located.

Claims 1-9, 12-34, 36, 37, 46-48, and 51-61, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,059,364 to Dryburgh et al.

Dryburgh et al. disclose a seating arrangement that includes all the limitations recited in claims 1-9, 12-34, 36, 37, 46-48, and 51-61, as best understood. Dryburgh et al. show a seating arrangement of an aircraft providing a sleeping compartment and a plurality of seating positions, each seating position including a footwell 18, a sleeping surface projecting into the footwell, the footwell of a first sleeping compartment/seating position being located beside the sleeping surface of a second sleeping compartment, the second sleeping compartment/seating position being located generally forward of

Art Unit: 3636

the first sleeping compartment, the first and second sleeping compartments overlap in a transverse direction, each seat is operable into a reclined state in which a leg-supporting compartment of the seat projects into the associated footwell, and the second seating position overlaps with the footwell of the first seating position in a transverse direction such that the second seating position overhangs part of the footwell of the first seating position.

Regarding claim 2, each seat of Dryburgh et al. is associated with one or more armrests (25 and opposed area of seat 17), a respective armrest of the first seating position and of the second seating position overlap in the transverse direction.

Regarding claim 3, Dryburgh et al.'s respective seats of the first and second seating positions overlap in the transverse direction.

Regarding claims 4 and 14, each seat of Dryburgh et al. includes a back and a base wherein, when the seats are in the reclined state, the respective backs of the first and second seating positions overlap in the transverse direction, the second seating position overlaps with the footwell of the first seating position in the transverse direction, an arm-receiving region 25 of the second seating position overhangs part of the footwell of the first seating position.

Regarding claims 5 and 7, each seating position of Dryburgh et al. includes a respective region for receiving a passenger's arms when lying on the seat in its reclined state wherein the respective arm-receiving region of the first and second seating positions overlap in the transverse direction, and at least some of the arm-receiving regions become wider in the forward direction.

Regarding claim 6, the footwells of Dryburgh et al. are shaped to become narrower in the forward direction.

Regarding claims 8, 9, and 15-18, Dryburgh et al.'s arrangement including a shell shaped to define a respective station for one or more of the seats and to define a respective footwell on one side of the station, the stations of the first and second seating positions overlap in the transverse direction, the shell is shaped so that each station become wider, and the footwell become correspondingly narrower in the transverse direction, the second seating position overlaps with the footwell of the first seating position in the transverse direction, the station for the second seating position overlaps or overhangs part of the footwell of the first seating position, the footwell of the first seating position becomes narrower in a direction generally away from a ground surface on which the arrangement rests during use, the footwell of the first seating position narrows at an inflected position located between the leg support component of the seat, when reclined, of first seating position and the back of the seat, when reclined, of the seat of the second seating position, the shell is shaped so that the seat become wider, and the adjacent footwell becomes correspondingly narrower in the direction generally away from the ground surface.

Regarding claim 12, Dryburgh et al.'s second seating position overlaps with the footwell of the first seating position in the transverse direction and overhangs part of the footwell of the first seating position, the respective seats of the first and second seating positions overlap in the transverse direction, and the seat of the second seating position overhangs part of the footwell of the first seating position.



Art Unit: 3636

Regarding claim 19, each seat of Dryburgh et al. includes a back, a seat base and the leg-supporting component, and when moving from an upright state to the reclined state, the back, seat base, and leg-supporting component each move in a generally forward direction.

Regarding claim 20-23, at least one of Dryburgh et al.'s seating positions includes an armrest including a shelf 27 overhanging the respective seating position in the transverse direction, and the shelf overhangs the respective seat, a shell shaped to define a respective station for one or more of the seats and to define a respective footwell on one side of the station, the stations of the first and second seating positions overlap in the transverse direction, the armrest are fixed with respect to the shell, and when the seat is in the reclined state, the respective armrest overhangs the back of the respective seat.

Regarding claim 24, each seat of Dryburgh et al., in the reclined state, provides a respective sleeping surface that is substantially horizontal with the ground surface on which the seating arrangement rests during use.

Regarding claims 8 and 25-27, a shell of Dryburgh et al. shaped to define a respective station for two or more seats in a row and to define a respective footwell on one side of the station, the stations of the first and second seating positions overlap in the transverse direction, the shell has a portion for accommodating the back or the back rest of a seat, and the portion being fixed in the fore-and-aft direction.

Regarding claims 28-30, each footwell of Dryburgh et al. is partially enclosed to define a console adjacent one or more respective seats, each console is shaped to

Art Unit: 3636

define a respective armrest adjacent the adjacent seat, the armrest overlapping with the footwell beneath the console, a table 27 including one or more table leaves is associated with each console, and the table being deployable from a stowed state in or on the console which it disposed generally parallel with the ground surface.

Regarding claims 31-33, a shell of Dryburgh et al. shaped to define a respective station for two or more seats in a row and to define a respective footwell on one side of the station, the stations of the first and second seating positions overlap in the transverse direction, the shell includes a respective buttress portion 25 extending between the adjacent seats or single seats, the buttress portion being shaped to define a respective footwell, each footwell is partially enclosed to define a console adjacent one seat, the buttress portion provides the console, a table 27 including one or more table leaves is associated with each console, the table being deployable from a stowed state in or on the console which it disposed generally parallel with the ground surface, and the buttress includes a stowage area for the table.

Regarding claims 8, 34, and 36, a shell of Dryburgh et al. shaped to define a respective station for two or more seats in a row and to define a respective footwell on one side of the station, the stations of the first and second seating positions overlap in the transverse direction, the shell is shaped to define a respective generally upright web portion 26 extending between adjacent stations or a single station, and the upright web portion is shaped to provide a screen between passengers seated in adjacent seats.

Art Unit: 3636

Regarding claim 37, Dryburgh et al.'s footwell of the first seating position extends beyond the base of the seat, when upright, of the second seating position in the forward direction.

Regarding claim 46, each footwell of Dryburgh et al. having a platform, wherein, when the associated seat is in the reclined state, the leg-supporting component of the seat closely approaches the platform within the footwell.

Regarding claims 47 and 48, each seating position of Dryburgh et al. provides a respective sleeping compartment with a footwell, a seat, and a sleeping surface projecting into the footwell wherein the sleeping compartments of the first and second seating positions overlap in the transverse direction, and the sleeping compartment of the second seating position overlaps the footwell of the sleeping compartment of the first sleeping compartment in the transverse direction.

Claims 1-4, 6, 8, 9, 12, 13, 15-19, 24-27, 34-45, 47, 48, 51-61, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by PCT Publication WO 03/053735 A1 to Thompson.

Thompson discloses a seating arrangement that includes all the limitations recited in claims 1-4, 6, 8, 9, 12, 13, 15-19, 24-27, 34-45, 47, 48, 51-61, as best understood. Thompson shows a seating arrangement of an aircraft providing a sleeping compartment and a plurality of seating position (see Fig. 3), each seating position including a footwell, a sleeping surface projecting into the footwell, the footwell of a first sleeping compartment/seating position being located beside the sleeping surface of a

Art Unit: 3636

second sleeping compartment, the second sleeping compartment/seating position being located generally forward of the first sleeping compartment, the first and second sleeping compartments overlap in a transverse direction, each seat is operable into a reclined state in which a leg-supporting compartment of the seat projects into the associated footwell.

Regarding claim 2, each seat of Thompson is associated with one or more armrests, a respective armrest of the first seating position and of the second seating position overlap in the transverse direction.

Regarding claim 3, Thompson's respective seats of the first and second seating positions overlap in the transverse direction.

Regarding claim 4, each seat of Thompson includes a back and a base wherein, when the seats are in the reclined state, the respective backs of the first and second seating positions overlap in the transverse direction, and the second seating position overlaps with the footwell of the first seating position in the transverse direction.

Regarding claim 6, the footwells of Thompson are shaped to become narrower in the forward direction

Regarding claims 8, 9, and 15-18, Thompson's arrangement including a shell shaped to define a respective station for one or more of the seats and to define a respective footwell on one side of the station, the stations of the first and second seating positions overlap in the transverse direction, the shell is shaped so that each station become wider, and the footwell become correspondingly narrower in the transverse direction, the second seating position overlaps with the footwell of the first seating

Art Unit: 3636

position in the transverse direction, the station for the second seating position overlaps or overhangs part of the footwell of the first seating position, the footwell of the first seating position becomes narrower in a direction generally away from a ground surface on which the arrangement rests during use, the footwell of the first seating position narrows at an inflected position located between the leg support component of the seat, when reclined, of first seating position and the back of the seat, when reclined, of the seat of the second seating position, the shell is shaped so that the seat become wider, and the adjacent footwell becomes correspondingly narrower in the direction generally away from the ground surface.

Regarding claim 12, Thompson's second seating position overlaps with the footwell of the first seating position in the transverse direction and overhangs part of the footwell of the first seating position, the respective seats of the first and second seating positions overlap in the transverse direction, and the seat of the second seating position overhangs part of the footwell of the first seating position.

Regarding claim 19, each seat of Thompson includes a back, a seat base and the leg-supporting component, and when moving from an upright state to the reclined state, the back, seat base, and leg-supporting component each move in a generally forward direction.

Regarding claim 24, each seat of Thompson, in the reclined state, provides a respective sleeping surface that is substantially horizontal with the ground surface on which the seating arrangement rests during use.

Art Unit: 3636

Regarding claims 8 and 25-27, a shell of Thompson shaped to define a respective station for two or more of the seats in a row and to define a respective footwell on one side of the station, the stations of the first and second seating positions overlap in the transverse direction, the shell has a portion for accommodating the back or the back rest of a seat, and the portion being fixed in the fore-and-aft direction.

Regarding claims 34-36, Thompson's shell is shaped to define an upright web portion (near arm 66) extending adjacent a single station and with a surface area disposed in a plane generally perpendicular to the forward direction and carrying a monitor/screen 68 between passengers.

Regarding claim 37, Thompson's footwell of the first seating position extends beyond the base of the seat, when upright, of the second seating position in the forward direction.

Regarding claim 38, a plurality of Thompson's seating positions are arranged in rows and ranks, the rows being generally perpendicular to the ranks and being partitioned by one or more aisles, the aisles being generally parallel with the ranks,

Regarding claim 39, two aisles of Thompson with each row comprising a respective single seating position on the outer side of each aisle, alternate rows comprising two seating positions and then three seating positions between the aisles.

Regarding claim 40, two aisles of Thompson with each row comprising a respective single seating position on the outer side of each aisle, alternate rows comprising two seating positions and then one seating position between the aisles.

Art Unit: 3636

Regarding claim 41, two aisles of Thompson with each row comprising a respective single seating position on the outer side of each aisle, each row comprising two seating positions between the aisles.

Regarding claim 42, two aisles of Thompson with each row comprising a respective single seating position on the outer side of each aisle, each row comprising three seating positions between the aisles.

Regarding claim 43, one aisle of Thompson with each row comprising a respective two seating positions on either side of the aisle.

Regarding claim 44, one aisle of Thompson with alternate rows comprising one seating position and then two seating positions on either side of the aisle.

Regarding claim 45, three aisles of Thompson with each row with a respective single seating position on both sides of each aisle.

Regarding claims 47 and 48, each seating position of Thompson provides a respective sleeping compartment with a footwell, a seat, and a sleeping surface projecting into the footwell wherein the sleeping compartments of the first and second seating positions overlap in the transverse direction, and the sleeping compartment of the second seating position overlaps the footwell of the sleeping compartment of the first sleeping compartment in the transverse direction.

### ***Response to Arguments***

Applicant's arguments filed 20 July 2009 have been fully considered but they are not persuasive. With respect to Dryburgh et al., Applicant argues that Dryburgh et al.

Art Unit: 3636

fail to disclose a seating arrangement in which the second seating position overlaps with the footwell of the first seating position in a transverse direction such that the second seating position overhangs part of the footwell of the first seating position. Examiner disagrees. See Figure 22 of Dryburgh et al. for the teaching that the second seating position 94 overlaps and overhangs part of the footwell of the first seating position 95. Therefore, Examiner maintains the Dryburgh et al. rejection.

Applicant's amendment to claims 1 and 52 teach elements not set forth in Kitamoto.

With respect to Thompson, Applicant argues that Thompson fails to disclose the claimed seating arrangement because the seating positions do not comprise both a seat and a footwell such that the seats are adjacent other seats not footwells. Examiner disagrees. See Figure 4 of Thompson for the teaching that the armrest 34 is a component of the second seating position 30 where the second seating position overlaps and overhangs the footwell of the first seating position (non-number seat in Fig. 4). Therefore, Examiner maintains the Thompson rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



Art Unit: 3636

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Joseph F Edell/  
Primary Examiner, Art Unit 3636  
November 24, 2009